tort-feasors did not discharge the remaining two. *Mecum* v. *Becker* (App. Div.), 149 N. Y. Supp. 974.

It is well settled that the release of one joint tort-feasor, in the absence of any reservation of rights against the other tort-feasors, operates as a discharge in law of all. *Gilpatrick* v. *Hunter*, 24 Me. 18; *Aldrick* v. *Darnell*, 147 Mass. 409. But there is a decided conflict as to the effect of a release of one or more of several joint tort-feasors with an express reservation of rights against the rest. Some of the courts hold that the reservation is void and that all are released notwithstanding the attempted reservation. *McBride* v. *Scott*, 132 Mich. 176, 93 N. W. 243, 102 Am. St. Rep. 416, 61 L. R. A. 445. The reasoning upon which this doctrine is based is that, as the tort is integral and indivisible, any claim for injuries therefrom is also indivisible, and if the instrument is held to be a release of any one it must necessarily extinguish the whole claim and release all the joint tort-feasors from any liability thereunder. *Abb* v. *Northern Pacific Ry. Co.*, 28 Wash. 428, 68 Pac. 954, 92 Am. St. Rep. 864, 58 L. R. A. 293. The reservation is void as being repugnant to the legal effect and operation of the release itself. *Gunther* v. *Lee*, 45 Md. 60. Other courts hold, and this doctrine seems to be more in accord with the modern view, that such an instrument should be given effect according to the obvious intent of the person executing it, and that it should not be treated as a technical release operating to destroy the cause of action as against any or all of the joint tort-feasors, but rather as a covenant not to sue the party in whose favor the instrument runs. *Gilbert* v. *Finch*, 173 N. Y. 455, 66 N. E. 133, 61 L. R. A. 807; *Cary* v. *Bilby* (C. C. A.), 129 Fed. 203.

But a different and somewhat better settled question arises when the release is made to some of the joint tort-feasors, with an express reservation of all rights against the rest, after a judgment has been obtained against all, as in the principal case. For a cause of action founded on tort, when reduced to a judgment, becomes as to all a joint indebtedness, *Missouri K. & T. Ry. Co.* v. *Haber*, 56 Kan. 717, 44 Pac. 619, and may be released or discharged as to a part of the joint debtors, without releasing the rest, when a statute, as in the principal case, provides that a joint debtor may make a separate composition with his creditor without releasing the others. *Missouri, Kansas & T. Ry. Co.* v. *Haber, supra.* But some cases fail to make any distinction as to whether the release was executed before or after judgment. *Brown's Admins.* v. *Little* (Ky.), 170 S. W. 168. *Contra, Dulaney* v. *Buffum*, 173 Mo. 1, 73 S. W. 125. It appears that the soundest basis upon which to place the decision in the principal case is that the judgment created a joint indebtedness and that the statute allowed a part of the joint debtors to be released without discharging the rest. The release cannot reasonably be construed a covenant not to sue since suit had already been brought and a judgment obtained before it was executed. *Ducey* v. *Paterson*, 37 Col. 216, 86 Pac. 109.

MARRIAGE—ANNULMENT ON THE GROUND OF FRAUD.—The defendant was affected with tuberculosis and had knowledge of the fact. Prior to the

marriage he declared to the plaintiff, his wife, that the symptoms were merely those of a cold. Subsequent to the marriage he was pronounced incurably affected with the disease. There were no children and immediately upon knowledge of her husband's condition she ceased to cohabit with him and filed suit for an annulment of the marriage. *Held*, this is sufficient fraud to justify an annulment. *Sobol* v. *Sobol* (N. Y. Sup. Ct.), 150 N. Y. Supp. 248. See NOTES, p. 465.

PLEADING—WILLFUL INJURY.—In an action for wrongful death a paragraph of the complaint averred that the defendant's engineer saw the decedent when the train was 400 feet from the crossing, but did nothing to warn him, nor made any attempt to stop the train, but purposely, willfully, and without regard to the rights of the decedent caused the locomotive running at a speed of 60 miles per hour to run upon and strike the buggy in which the decedent was riding, throwing him to the ground and killing him. *Held*, sufficient to charge a willful injury, though there was no averment of an intent to commit the injury. *Cleveland, etc., R. Co.* v. *Starks* (Ind.), 106 N. E. 646.

To constitute a willful injury there must be an intent to inflict the injury complained of. *Birmingham R. & E. Co.* v. *Bowers*, 110 Ala. 328, 20 South. 345. The decisions are not consistent as to the necessity of averring this intent in the pleadings. It has been said that to charge a willful injury, the complaint must aver that the injury was purposely and intentionally committed with the intent to inflict the injury complained of. *Union Traction Co.* v. *Lowe*, 31 Ind. App. 336, 67 N. E. 1021; *So. R. Co.* v. *McNeely*, 44 Ind. App. 126, 88 N. E. 710, 714. In accordance with this it has been held that a mere averment that the plaintiff was wantonly and willfully injured does not charge a willful injury. *Belt R. & Stock-Yard Co.* v. *Mann*, 107 Ind. 89, 7 N. E. 893. Nor does an averment that the defendant carelessly, negligently, wantonly and willfully ran its train over appellee charge such an injury. *Louisville, etc., R. Co.* v. *Adler*, 110 Ind. 376, 11 N. E. 437. On the other hand an averment that the appellant willfully and willingly did inflict the injury has been held sufficient to charge willful injury. *Chicago, etc., R. Co.* v. *Nash*, 1 Ind. App. 298, 27 N. E. 564. Also, an allegation that the defendant wantonly or willfully injured the plaintiff states a good cause of action for willful injury. *Yarbrough* v. *Carter*, 179 Ala. 356, 60 South. 833. These last two cases seem to proceed upon the theory that the intent is sufficiently averred by the use of the word "willfully." This seems to be the tendency of the modern decisions. See *Vandalia R. Co.* v. *Clem*, 49 Ind. App. 94, 96 N. E. 789. But there must be an inference from the complainant that the injury was intentionally inflicted. *Birmingham Light & Power Co.* v. *Brown*, 15 Ala. 327, 43 South. 342; *Neyman* v. *Alabama, etc., R. Co.*, 172 Ala. 606, 55 South. 509, Ann. Cas. 1913E, 232. If it appears from the complaint that the wrongdoer was not aware of the possibility of an accident, the complaint does not charge willful injury, despite an allegation of willfullness. *Vandalia R. Co.* v. *Clem*, *supra*. But knowledge of the state of affairs may be imputed to him